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09/610,933	07/06/2000	Frederick Herbert Raab	GMRR PA00-3	5138
7590 05/16/2006			EXAMINER	
JAMES MARC LEAS 37 BUTLER DRIVE S. BURLINGTON, VT 05403			SHINGLETON, MICHAEL B	
			ART UNIT	PAPER NUMBER
			2817	

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/610,933

Applicant(s)

RAAB, FREDERICK HERBERT

Examiner

Michael B. Shingleton

Art Unit

2817

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) 10-12, 20-27 and 47-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 13-19, 28-46 and 56-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

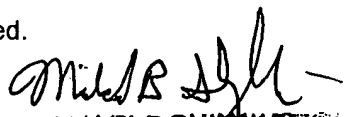
- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

  
MICHAEL B. SHINGLETON  
PRIMARY EXAMINER  
PARTICIPANT/INITIAL

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

Claims 29 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites that the time varying input tuning signal that is applied to the control input “is independent of a signal amplified by said power amplifier”, yet claim 29 says that an envelope detector is connected to the control input and is “responsive to an input RF signal”. The “signal to be amplified by said power amplifier” is the input RF signal and thus claim 29 is contradictory to that of claim 1 that requires signal applied to the control input be independent”.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 35 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically claim 35 recites that in an electronically tuned circuit arrangement where the tuning signal is independent a signal amplified by the amplifier also includes the functional recitation of requiring “when said time varying tuning input signal has an amplitude that is above a threshold said electronically tunable output network is used to control amplitude and when said time varying tuning input signal is below a threshold said drive level adjuster is used to control amplitude”. Figures 17-18 that relates to a drive level controller that is controlled by a external means fails to describe the use of sensing the threshold to determine whether the drive level controller is used or the tuned filter is used.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 13-19, 28, 30-34, 36-38, 40-46 and 56-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bosse et al. 3,391,347 (Bosse) in view of Clar 3,424,993 (Clar) as evidenced by Ishii 5,862,458 (Ishii).

Figure 5 and the relevant text of Bosse discloses an electronically tuned circuit that is part of the output network of an amplifier arrangement. The two electronically tunable non-motor driven solid-state elements 71 and 68, commonly called varactors, are part of the output network and are capable of being tuned via a voltage. Transistor 50 forms a common emitter amplifier whose output is applied to the input of the output network as is clearly illustrated by Figure 5 of Bosse. In the output network there is at least one control line 8 that forms at least one control input for the electronically tunable components. The claims have been amended previously to state that the control signal varies over more than two values thus forming a time varying input signal. Note that the potentiometer 13 allows the control signal to vary over more than two values over time. In fact the potentiometer 13 allows for a continually varying signal over time. Note that because of the control that the potentiometer 13 offers the circuit, this potentiometer can be called a "controller". Applicant is just not specific on exact what structure a controller is to include and thus the examiner is only giving the broadest reasonable interpretation to the claims (See MPEP 2111). The claims have been recently amended to now recite that the time varying tuning input signal is "independent of a signal amplified by said power amplifier". This was done to overcome prior art arrangements such as Ishii that senses the output in some way to tune the output network. These structures are now excluded from the present invention that would also include the common transmitter and matching network. For these reasons the amendment necessitated this new rejection. The time varying tuning input signal from the potentiometer 13 of Bosse is clearly independent of a signal amplified by the amplifier 50. Note that there is not feedback shown to control the potentiometer in response to the sensing of the amplified output signal. The changing of the variable capacitance elements above ("electronically tunable component") changes the resonant point of the output network and thus tunes the output network to a desired frequency band. For example if the input signal to the amplifier is a

- UHF signal of a certain frequency in the "I" band to be transmitted, then the tuning of the output network would be selected accordingly. The only thing that Bosse is silent on in the Figure 5 embodiment with respect to that of claims like claim 1 of the instant invention is the calling of the common emitter amplifier 50 a "power amplifier" for providing "large-signal mode" signals. Since neither the claims or the specification defines how large the large-signal mode is and neither the claims or the specification defines the structure that defines a "power amplifier", given the broadest reasonable interpretation of the claims the common emitter amplifier 50 is considered a power amplifier that provides a "large-signal mode" output signal. However, alternatively, Bosse is not limiting as to the use or implementation of the invention. As is clearly presented by Clar, the common emitter amplifier is a well known power amplifier structure. Note that the common emitter power amplifier 28 is coupled to a tuned circuit composed of variable capacitance 39 and the output transformer 46 whose output is connected to an antenna for transmitting a "large-signal mode signal" to free space. In fact Clar closely parallels the arrangement of Bosse, for note that the arrangements are RF arrangements and that the two amplifiers (50 of Bosse and 28 of Clar) are common emitter amplifiers, and that the outputs of these amplifiers are applied to a tuned resonant circuit each having a transformer with a variable capacitance connected to the primary side of the transformer whose capacitance is tuned to the operating frequency (See the paragraph bridging columns 2 and 3 of Clar and column 1 around line 30 of Bosse), and also note that the secondaries of these transformers are to provide the output signal. It is just that Bosse is silent on the particular load for the secondary of the transformer in the Figure 5 embodiment and Clar notes specifically that the output of the secondary of the transformer is for an antenna so as to allow for the transmitting of an RF signal. Based on past responses by applicant, applicant might argue that a varactor cannot be used in a power amplifier arrangement. However as evidenced by a varactor 83 is well known to be used at the output of a power amplifier as part of output network 8.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized the amplifier arrangement of Bosse as a RF power amplifier for providing an output signal that is to be applied to an antenna for transmission because, as the reference Bosse is silent on the use of the RF amplifier 50 one of ordinary skill in the art would have been motivated to use the RF amplifier of Bosse for any art-recognized use including the art-recognized use of providing an amplifier arrangement such as Bosse or Clar for a power RF amplifier for providing a large-signal mode signal to an antenna as taught by Clar. One of ordinary skill in the art at the time the invention was made would have been further motivated to make the combination so as to allow the non-motorized control the tuned output network of the arrangement of Clar as taught by Bosse.

The tuning of the output networks above clearly is done in part to “maintain a match between the output network and a varying load impedance” or stated differently “provides a power-amplifier load-impedance locus that substantially maximizes power-amplifier efficiency” or “causes said power-amplifier load impedance to follow a substantially resistive locus, thereby maintaining power-amplifier efficiency near maximum”. For example an antenna is common known to be adjustable in resonance i.e. the load impedance will change. When the antenna is changed in resonance, i.e. the load impedance is changed then the output network must be tuned to provide a match. Note that Clar specifically states that if the output network is “mistuned” then undesirable peak voltage can appear at the collector of the power amplifier possibly destroying the power amplifier. Thus clearly one would tune the varying reactance of the combination made obvious above so as to maintain a match of the output network when the load is varied such as the antenna is adjusted for a different frequency.

With respect to claims like claims 4, 34, these are very broad claims that recite only functional language and do not recite structure. Accordingly, because of the signal to the variable capacitance can be changed over time via the use of the potentiometer or the like, the arrangement made obvious above is fully capable of modulating the output signal in the same exact manner as disclosed by applicant. As noted above Clar clearly shows that by changing the tuning of the variable capacitance the voltage magnitude of the amplifying transistor and accordingly the output signal will change. Clar clearly teaches that in such an arrangement made obvious above that the output signal is amplitude modulated with respect to the varying reactance of the electronically tunable reactive component.

With respect to claims like claims 8 and 9, the tuning inputs here are recited as being selected in accordance with a “lookup table”. One well known art recognized equivalent structure to provide various control voltage potentials is by way of a look-up table. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the potentiometer 13 of Bosse with a look-table controlled by a computer or processor sometimes referred to a DSP or use the look-up table/DSP to control the potentiometer 13 since the examiner takes Official Notice of the equivalence of a look-table and associated computer control and the potentiometer for their use in the control circuit art and the selection of any of these known equivalents to provide a control voltage signal would be within the level of ordinary skill in the art. One of ordinary skill would have been additionally motivated to replace the potentiometer or use the potentiometer in combination with a DSP and look-up table since the DSP and look-up table allows for the automatic control i.e. it is not manual and the DSP and look-up table has the added advantage of being able to be programmed i.e. the program can changes for changes that are caused with time such as the aging of the circuit or the program can changed when there are desired

changes in the circuit such as one desires a change in frequency or one of the circuit elements has to be replaced and the circuit would then be required to be recalibrated.

With respect to claims like claims 14, and 17-19 here the electronically tunable capacitor is implemented as either a transistor, a micro electro-mechanical system device, a variable-dielectric material or a piezo-electric device. These claims are clearly added merely to provide coverage for all conventionally known art-recognized equivalent electronically tunable capacitors. The electronically tunable capacitor of Bosse is that of a diode, however, Clar is silent on the exact structure of the variable capacitance element thus accordingly it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the diode of the combination made obvious by Bosse and Clar with either a transistor, a micro electro-mechanical system device, a variable-dielectric material or a piezo-electric device since the examiner takes Official Notice of the equivalence of either the transistor, a micro electro-mechanical system device, a variable-dielectric material or a piezo-electric device variable capacitance elements and diode based variable capacitance element for their use in the electronics art and the selection of any of these known equivalents to provide a variable capacitance function would be within the level of ordinary skill in the art.

With respect to claims like claims 30 and 31 here a "drive-level adjustor" is coupled for adjusting a signal provided to the power amplifier and a processor is used to provide a drive signal to the power amplifier. Given the broadest reasonable interpretation of the claims the potentiometer 13 of the combination made obvious does adjust the amplitude of a signal provided to the power amplifier arrangement. However, alternatively, the use of an DSP controlled attenuator at the input of a power amplifier to adjust the gain of the amplifier arrangement is very conventional and thus It would have been obvious to one of ordinary skill in the art at the time the invention was made to provided an DSP controlled attenuator at the input of the power amplifier so as to allow for gain adjustment of the amplifier as is conventionally known by those of ordinary skill in the art. One of ordinary skill in the art would have been further motivated to provide a DSP controlled amplitude modulator at the input of the power amplifier so as to amplitude the input signal so as to impart an information content on the signal transmitted as is conventionally known by those of ordinary skill in the art.

Claims like claim 38 recites that the bias level is set to the minimum level necessary to enable operation of the power amplifier. While Bosse and Clar is silent on the exact biasing point the selection of the bias point is merely the selection of the optimum or workable range that involves but routine skill in the art. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the bias point to the minimum so as to reduce power consumption, since it has been

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held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105, USPQ 233.

With respect to claim 39 here the bias point is controlled with respect to "impedance". It is well known to provide temperature compensation to a bias circuit and a conventional temperature compensation circuit utilizes a control impedance based on temperature. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a temperature compensation circuit to the bias arrangement of Bosse and Clar so as to control the bias point with respect to an impedance that is responsive to temperature so as to correct for temperature as is conventionally known in the art.

With respect to claim 41-46 here applicant recites use of a Class E power amplifier and the tuning points of the output network to be tuned to optimum or suboptimum tuned. The tuning point is merely part of the optimum or workable range that involves but routine skill in the art. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to tune to optimum or tune to suboptimum within the workable range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105, USPQ 233. As to the use of a Class E amplifier, the selection of the class of amplifier results in the selection of the amount a linearity and accordingly the amount of power consumption. For example a Class A amplifier is "on" all the time thereby drawing power all the time. A switching amplifier is conventionally known to not draw as much power as the amplifying element are switched off a times. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a Class E amplifier in Bosse and Clar to save power as is conventionally known in the art. Still further a Class E is considered to be an art recognized equivalent to that of Bosse and Clar. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the power amplifier of Bosse and Clar with a Class E amplifier since the examiner takes Official Notice of the equivalence of the Class E amplifier and the amplifier of Bosse and Clar for their use in the RF electronic art and the selection of any of these known equivalents to provide an amplifier function would be within the level of ordinary skill in the art.

Applicant's arguments filed February 28, 2006 have been fully considered but they are not persuasive.

In response to the 35 USC 112 second paragraph rejection applicant refers to Figure 9 of the disclosed invention. Note that the elected invention is that of Figures 17-19 and even if applicant is



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correct then claim 29 is properly directed toward the non-elected invention. However, claim 29 is still viewed as indefinite for the reasons below. It is also noted that applicant has not amended either claim 1 or claim 29 to address this issue. It appears that applicant is reading more into the claims than is present. Specifically claim 1 recites that the time varying tuning signal is independent of "a signal amplified by said power amplifier". Note that, "a signal" that is amplified by the power amplifier is the input signal, the very signal connected to terminal 80 in Figure 9 referred to by applicant. Claim 29 recites that the envelope detector is responsive to this RF input signal, i.e. the signal amplified by the power amplifier. The envelope detector is connected to the controller 61 in Figure 9 which accordingly varies the control signal on line 15, i.e. the time varying tuning signal is not independent of "a signal amplified by said power amplifier", i.e. the input RF signal. Accordingly the 35 USC 112 second rejection is maintained.

Applicant asks that the examiner consider that element 50 of Bosse "is not a power amplifier". The examiner must give the broadest reasonable interpretation to the claims and the common emitter amplifier 50 of Bosse can be called a "power amplifier" for the term "power amplifier" is a broad term. In support the examiner has cited the definition of "power amplifier". A power amplifier is "An amplifier that is usually the final amplification stage in a device and is designed to give the required power output". The required power output could be any value and the power amplifier does not even have to be the final amplifier thus any amplifier can be considered to be a "power amplifier". Furthermore, one has to take what the combination teaches to one of ordinary skill in the art at the time the invention was made. Here Clar shows that a common emitter amplifier like that of Bosse can be used as a power amplifier to drive an antenna. The examiner contends that the use of solid state elements like a varactor in the tuning stage of an power amplifier is taught and suggested by the prior art.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael B. Shingleton whose telephone number is (571) 272-1770.

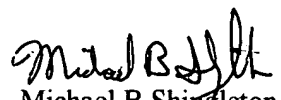
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pascal, can be reached on (571)272-1769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 and after July 15, 2005 the fax number will be 571-273-8300. Note that old fax number (703-872-9306) will be service until September 15, 2005.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MBS

November 28, 2005

  
Michael B Shingleton  
Primary Examiner  
Group Art Unit 2817